

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3           UNITED STATES OF AMERICA,

Case No.: 2:22-cr-00064-APG-EJY

4                   Plaintiff

**Order Denying Motion for Acquittal**

5           v.

[ECF No. 107]

6           CALEB MITCHELL ROGERS,

7                   Defendant

8           Caleb Rogers was convicted by a jury of three counts of interference with commerce by  
9 robbery and one count of brandishing a firearm during a robbery. ECF No. 102. He now moves  
10 for a judgment of acquittal as to the robbery of the Rio Casino and related gun charge. ECF No.  
11 107. Rogers argues there was insufficient evidence presented to prove that his actions in  
12 connection with that robbery affected interstate commerce. And because he could not be  
13 convicted of that robbery, he could not be convicted of the related gun charge.

14           With regard to the interstate commerce element of the robbery charge, the jury was  
15 instructed as follows:

16                   To convict Mr. Rogers of robbery as charged in Counts One through  
17 Three of the indictment, the government must prove that Mr. Rogers' conduct  
*affected or could have affected interstate commerce.*

18                   Conduct affects interstate commerce if it in any way involves, interferes  
19 with, changes, or alters the movement or transportation or flow of goods,  
merchandise, money, or other property in commerce between or among the states  
20 or between the United States and a foreign country. *The effect can be minimal.*


21                   It is not necessary for the government to prove that the defendant knew or  
22 intended that his conduct would affect commerce; it must prove only that the  
natural consequences of his conduct affected commerce in some way. *Also, you*  
23 *do not have to find that there was an actual effect on commerce. The government*  
*must show only that the natural result of the offense would be to cause an effect*  
*on interstate commerce to any degree, however minimal or slight.*

1 ECF No. 99 at 15 (emphasis added). The Government presented sufficient evidence to establish  
2 this element. “The evidence is sufficient to support a conviction if, ‘viewing the evidence in the  
3 light most favorable to the prosecution, any rational trier of fact could have found the essential  
4 elements of the crime beyond a reasonable doubt.’” *United States v. Milwitt*, 475 F.3d 1150,  
5 1154 (9th Cir. 2007) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

6 Rio Casino employees testified that many of their customers come from out of state and  
7 place cash bets; because of the robbery, the sportsbook was shut down for several hours, so it  
8 could not accept or pay out bets; and the stolen cash, although eventually returned, was removed  
9 from circulation and use for several hours. Thus, the natural result of Rogers’ actions was to  
10 prevent the Rio Casino from accepting or paying bets from out-of-state customers and from  
11 using the stolen cash to do so. The Ninth Circuit “has intimated that it is sufficient for the  
12 government to prove a *de minimis*, probable effect on interstate commerce, so long as it is not  
13 purely speculative.” *United States v. Tuan Ngoc Luong*, 965 F.3d 973, 986 (9th Cir. 2020). The  
14 Government met that burden here. And because the elements of the robbery count were  
15 established, the conviction on the related gun charge was proper.

16 I THEREFORE ORDER that Rogers’s motion for judgment of acquittal (**ECF No. 107**)  
17 **is denied.**

18 DATED this 21st day of September, 2023.

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22 ANDREW P. GORDON  
23 UNITED STATES DISTRICT JUDGE